

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

TIRALE O. REED

PETITIONER

VS.

CIVIL ACTION NO. 3:17CV604TSL-LRA

SHERIFF BILLY SOLLIE

RESPONDENT

ORDER

This cause is before the court on the report and recommendation of Magistrate Judge Linda R. Anderson on January 31, 2018, recommending that Tirale Reed's § 2241 petition be dismissed. Petitioner Reed has filed an objection. Having reviewed the report and recommendation, the court concludes that the objection is not well taken and is overruled and that the report and recommendation shall be adopted subject to the following modifications:

Inasmuch as Reed has been released on bond, and not due to the expiration of a sentence of conviction, it is clear that he continues to satisfy the custody requirement, see Brown v. Lewis, No. 3:12CV859-HTW-LRA, 2013 WL 4678594, at *2 (S.D. Miss. Aug. 30, 2013) ("although Brown was recently released on a conditional bond, he remains 'in custody' for the purposes of § 2241 because he is 'subject to restraints not shared by the public generally....'")(quoting Hensley v. Municipal Court, 411 U.S. 345, 351, 95 S. Ct. 1571, 36 L. Ed. 2d 294 (1973)). His petition is, therefore, not moot. Additionally, to the extent that, by his petition, Reed is attempting "to abort a state proceeding or disrupt the orderly function of state judicial processes," he

fails to state a claim upon which relief may be granted. Brown v. Estelle, 530 F.2d 1280, 1283 (5th Cir. 1976)(internal citations and quotation omitted). Finally, to the extent that he seeks to enforce the state's obligation to bring him promptly to trial, as set forth in the report and recommendation, he neither demonstrated that he has exhausted, nor has he shown that "special circumstances" exist.

Based on the foregoing, it is ordered that the report and recommendation of United States Magistrate Linda R. Anderson entered on January 31, 2018, be, and the same is hereby, adopted as the finding of this court, subject to the foregoing modifications. Accordingly, it is ordered that respondent's dispositive motion is granted and that the petition is dismissed.

A separate judgment will be entered in accordance with Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED this 22nd day of February, 2018.

/s/Tom S. Lee
UNITED STATES DISTRICT JUDGE